

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

APPLICATION

In Re:

EILEEN FAGAN,

Debtor.

Case No.: 04-23460-ash
(Chapter 13)

Assigned to:
Hon. ADLAI S. HARDIN, JR.
Bankruptcy Judge

DEUTSCHE BANK TRUST COMPANY AMERICAS F/K/A BANKERS TRUST
COMPANY, AS TRUSTEE ("Secured Creditor"), by its attorneys Steven J. Baum, P.C., moves
to terminate the automatic stay in this case with respect to the real property commonly known as
16 BREWSTER AVENUE , STONY POINT, NY 10980 and states as follows:

1. Secured Creditor is the holder by assignment of a mortgage dated the 9th day of
October, 2001 in the amount of \$284,750.00 secured by the premises commonly known as 16
BREWSTER AVENUE , STONY POINT, NY 10980 (the "Mortgaged Premises"). A copy of the
Note, Mortgage and Assignment(s) is attached hereto as **Exhibit 'A'**.

2. On the 21st day of September, 2004 Debtor EILEEN FAGAN, filed a Petition under
Chapter 13 of Title 11 U.S.C. §101 et seq with this Court, and an Order for relief was duly
entered.

3. The Note and Mortgage provide that the Debtor will be in default if he or she does not make full monthly payments on each due date. As of the 31st day of March, 2006, the Debtor has failed to make 2 post-petition payments in the amount of \$3,709.17 which represents the payments due the 1st day of February, 2006 through March, 2006 and has not cured said default. In addition, 1 post-petition payment due the 1st day of April, 2006 will be due at the date this motion is heard. An Affidavit from a Bankruptcy Representative will be submitted supplemental to the motion.

4. That as of the 31st day of March, 2006, there was an unpaid principal balance owed on the Note and Mortgage in the sum of \$278,043.61, with interest thereon in the amount of \$20,553.51, plus late charges in the amount of \$946.28, for an estimated amount owing Secured Creditor in the amount of \$299,543.40. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make further advances for property taxes, insurance and related matters.

5. Secured Creditor is suffering immediate and irreparable injury and loss in that insufficient income is being received by it on the Note secured by the Mortgage to pay real estate taxes and hazard insurance and as each installment period passes and as advances are made, Secured Creditor is further exposed and the equity securing its interest in the Mortgaged Premises is further diminished to the point where it does not now nor will it have adequate protection for that security interest.

6. A copy of a proposed Order granting the relief sought by Secured Creditor is annexed hereto as **Exhibit 'B'**.

7. No prior application has been made for the relief requested herein.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises together with such other, further and different relief as the Court may deem just in this matter.

DATED: April 4, 2006
Westbury, New York

Yours, etc.
STEVEN J. BAUM, P.C.
Attorneys for Secured Creditor
DEUTSCHE BANK TRUST
COMPANY AMERICAS F/K/A
BANKERS TRUST COMPANY, AS
TRUSTEE

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